

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

132

CR-1400-2024 (O&M)
Date of decision:05.03.2024

Gurjinder Singh

... Petitioner

Vs.

Mithu Singh & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. K.S. Brar, Advocate for the petitioner.

...

SUKHVINDER KAUR, J. (ORAL).

1. The instant revision petition has been filed by the petitioner/defendant No.1 against the order dated 06.12.2023 passed by the Additional Civil Judge (Sr. Division), Mansa vide which the evidence of the petitioner was closed by order.

2. Brief facts that are relevant for adjudication of the present revision petition are that respondent No.1 filed a suit for permanent injunction against the petitioner and proforma respondent No.2 from restraining them from interfering into the possession of plaintiff's over property measuring 5 kanals 5 marlas, Killa No.20//18/1 min (3-19), 101//3/2 (1-2), 9/2/2/2 (0-4), area of village Karamgarh @ Autanwali, District Mansa. The petitioner also filed a civil suit for permanent injunction against the respondents and vide order dated 01.10.2021 was granted interim injunction by the trial Court.

3. After issuing notice of the suit, petitioner filed written statement on 18.02.2022. The case was fixed for plaintiff's evidence on 19.01.2023 and

the plaintiff's evidence was closed on 16.11.2023. Thereafter, the case was fixed for defendant's evidence. When the defendant did not conclude his evidence then it was closed by order of the Court on 06.12.2023. Aggrieved of the said order, the revision petitioner/defendant No.1 has knocked the doors of this Court by way of the filing of the present revision petition.

4. Learned counsel for the petitioner has contended that on 22.11.2023, it was the first date for defendant's evidence and an adjournment was sought by counsel for the defendant. On 30.11.2023, counsel for the defendant could not appear before the trial Court and thereafter case was adjourned to 06.12.2023 on which date again counsel for the defendant could not come present and the evidence of the defendant was closed by order of the Court. He has further contended that only three opportunities were granted to the petitioner to lead his evidence and on 06.12.2023 in the absence of counsel for the petitioner, the evidence of the petitioner was closed by order of the Court. He has further submitted that the petitioner has no intention to linger on the matter unnecessarily, but only due to absence of counsel for the defendant, the petitioner could not lead his evidence and has prayed that one effective opportunity may be granted to the petitioner for concluding his evidence and the impugned order may be set aside.

5. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

6. Perusal of the impugned order reveals that due to non-appearance of the defendant as well as his counsel, evidence of the defendant was closed by order of the Court.

7. Though there is no infirmity in the impugned order, yet it will

be appropriate, if in the interest of justice, one effective opportunity is granted to the petitioner to conclude his evidence. The other party can be well compensated with costs. Therefore, the impugned order is set aside. The trial Court is directed to grant one effective opportunity to the petitioner to conclude his entire evidence at his own responsibility subject to payment of costs of Rs.5,000/- to be paid to the respondent.

- 8. Revision petition is allowed in the aforesaid terms.
- 9. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

05.03.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |